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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,303	02/09/2001	Ronald L. Panter	P-3001.2ITEC	6780

7590

08/15/2003

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EXAMINER

LISH, PETER J

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,303

Applicant(s)

PANTER ET AL.

Examiner

Peter J Lish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 28-38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-17 and 20-27 is/are rejected.
- 7) ☒ Claim(s) 18-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Applicant's arguments with respect to claims 1-7 have been fully considered and are persuasive. The rejection of claims 1-7 has been withdrawn.

Applicant's arguments with respect to claim 8 have been fully considered but they are not persuasive. Applicant argues that the application of *In re Japinske* is overcome because relocating the heating zone where carbonization is performed will change the process. It is held by the examiner that the relocation of the carbonization heating zone from a one furnace to another does not change the process of carbonization, it merely changes the location wherein an identical process occurs. Applicant additionally argues that there is no suggestion to relocate the carbonization zone explicitly taught in the art of reference. It is held by the examiner that a limitation need only be obvious to one of ordinary skill, it need not be explicitly taught in the reference. Applicant further argues that Pepper et al. does not teach treating single fibers. It is noted that the features upon which applicant relies (i.e., a single fiber) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It is maintained that Pepper et al. teaches the treatment of a precursor fiber.

Applicant's arguments with respect to claims 9-27 have been fully considered but they are not persuasive. Applicant argues that there is no suggestion to perform carbonization in an oxidizing atmosphere (i.e. to combine the references) explicitly taught in the references. It is held by the examiner that a limitation need only be obvious to one of ordinary skill, it need not be explicitly taught in the reference.

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Regarding claims 14-17, 21, and 24, applicant argues that the combination of Pepper and Uchida, as applied to claim 9, does not constitute a known process for the purposes of *In re Boesch*. It is held by the examiner that the combination of two known processes constitutes a known process. Furthermore, it is obvious to one of ordinary skill to optimize the residence times and temperatures of a process. Regarding claim 17, the use of air is taught by Pepper for the atmosphere of the stabilization steps, and taught by Uchida for the atmosphere of the carbonization step.

Regarding applicant's arguments that no reason for the rejection of claims 20-21 is recited in the previous office action, it is noted that the bottom of page 4 states "Pepper et al. also teach the graphitization of the carbonized fibers." Additionally, claim 21 is drawn toward optimization of a known process, which was rejected under the reasoning of *In re Boesch*, as above.

Regarding applicant's arguments that the "expectations" used in the rejections of claims 22-23 are unexplained, the basis for the expectations lie in the difference between a multizone furnace and a series of separate furnaces, both of which being taught by Pepper. It is expected that a multizone furnace is a single enclosed body, whereas it is expected that a series of separate furnaces be composed of individually enclosed bodies, *because this is what these words mean.*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper et al. (USPN 4,526,770).

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The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 9, 13-17, 20-24, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper et al. (USPN 4,526,770) taken with Uchida et al. (USPN 5,733,484).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper et al. and Uchida et al. as applied to claim 9 above, and further in view of McCullough (USPN 5,700,573).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepper et al. and Uchida et al. as applied to claim 9 above, and further in view of Berkebile et al. (USPN 5,316,654).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

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Allowable Subject Matter

Claims 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-7 are allowed. The following is a statement of reasons for the indication of allowable subject matter: Prior art does not teach, nor suggest, performing stabilization and carbonization in the same heating chamber of the same furnace.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 703-308-1772. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-305-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



PL

August 11, 2003

STUART L. HENDRICKSON
PRIMARY EXAMINER